

DECISION NOTICE
DNRC/MILLER LAND EXCHANGE
RAVALLI AND LEWIS & CLARK COUNTIES
November 28, 2005

INTRODUCTION

Pursuant to the Montana Environmental Policy Act, §§77-1-201, et seq., MCA, the Final Environmental Assessment (EA) for the DNRC/Miller Land Exchange, evaluates and analyses the impacts to the human environment expected to result from the completion of the Land Exchange. I have reviewed the contents of the Final EA, as well as the public comments received in response to the draft EA, including verbal comments submitted during the hearings in Hamilton (11/15/05) and Lincoln (11/16/05). I've also reviewed the alternatives to the project objectives and the EA's evaluation of their advantages and disadvantages. I've concluded that the EA complies with the requirements of Titles 75 and 77, MCA, as well as the Land Board's Land Exchange Policy dated December 20, 2004.

DECISION

A. Alternative Selection

I have chosen to implement Alternative B (Proposed Action Alternative), as described on pages 4 through 6 of the Final EA, with the following modifications:

DNRC will accept a donation of \$160,000 from Mr. Miller, which will be used to acquire additional publicly accessible lands in the Lincoln area. This donation constitutes an additional mitigation to address issues raised by the public regarding concerns over loss of public/hunter access.

DNRC will either place a deed restriction prohibiting the grazing of domestic sheep on the exchanged 800 acres or require a legally binding commitment from Mr. Miller that he will prohibit the grazing of domestic sheep on the exchanged 800 acres. This is an additional mitigation to address issues raised by the public regarding concerns over domestic sheep grazing.

B. Relationship of the Objectives to the Decision

The four objectives stated on page 1 of the Final EA include:

- 1) Secure improved access for land management activities on State-owned property at Lincoln;
- 2) Acquire lands with higher revenue-generating potential for the state trust lands;
- 3) Increase consolidation of the state trust land within the Lincoln State Forest;
- 4) Reduce the potential for land use conflicts with the Shining Mountain Ranch (SMR).

I believe the decision on this project accomplishes all of the previously mentioned objectives of this project. The land exchange will increase state ownership in the Lincoln State Forest by 1,458 acres, which will serve the dual purposes of improving management and public access, while also consolidating the existing DNRC ownership in the Lincoln area. Secondly, the lands in the Lincoln area currently have a greater annual revenue stream from grazing than do the lands in the Sula State Forest. Additionally, those lands in Lincoln have residual timber that will likely produce some revenue within the next 30 years. Finally, land-use conflicts may be diminished between SMR and the public over the long term, because those lands in the Sula area bordering the SMR will be transferred into private ownership. (DNRC may need to arrange for some additional signing of the property boundaries in the Sula in the interim period now and when the USFS comes out with a new Bitterroot National Forest map.)

C. Relationship of the Issues and Public Comment to the Decision

I believe the potential environmental effects of the alternatives, including the modifications, were adequately identified and analyzed in the Final EA.

Issues Raised

1) Land Values

Concerns have been raised over the initial and subsequent appraisals of the DNRC parcels in the Sula State Forest. Per the Land Board Exchange Policy, DNRC directed Mr. Miller to have an appraisal completed of the Sula lands that met DNRC standards and that said appraisal would be reviewed by DNRC. Based upon that direction, Mr. Miller contracted with an appraiser. The appraiser, DNRC staff, and Mr. Miller's representatives then had a number of discussions to clarify DNRC's appraisal standards and the format of the final product. The initial appraisal, based on limited access to the property indicated a value of \$1,065,000 or \$1,331/acre (with timber). Subsequently, public comments were made expressing concern regarding valuation of the Sula lands. DNRC then hired an independent appraiser to complete a second appraisal of the Sula lands under the hypothetical condition of full legal access. This appraisal reported a value of \$4,331/acre (with timber). Per the Land Board's Land Exchange Policy, DNRC recommends a value of \$2,725/acre be applied to the Sula lands, which reflects a discount for access, but also recognizes a value greater than the initial appraisal.

2) Public/Hunter Access

Concerns were raised about the loss of hunter access to state lands in Ravalli County. Whereas 800 acres of publicly accessible state land would cease to be accessible to the public in Ravalli County, 1,458 acres of additional state lands would be accessible in the Lincoln

area. Additionally, pages 28 and 29 of the EA discuss additional land exchanges currently under consideration by DNRC that would overall contribute to a net increase of publicly accessible acres within Ravalli County. Concerns were also raised that the original proposal included over 1,800 acres that were to be acquired by DNRC in the Lincoln area, but that those lands had been reduced due to differences in value. As stated earlier in the decision notice, DNRC will accept a donation of \$160,000 from Mr. Miller to be used by DNRC to acquire additional publicly accessible state lands in the Lincoln area.

3) Potential for Development

Page 27 of the EA discloses that under Alternative B, management of the Sula lands by DNRC would be discontinued. No local zoning laws limit private land development; however, any proposed development by Mr. Miller must be in compliance with an existing conservation easement on the SMR and with applicable county and state regulations.

4) Big Game

Concerns were raised at the Hamilton Hearing that there was no mention of the conflicts between domestic sheep and big horn sheep. Page 14 of the EA documents that the French Basin supports populations of big horn sheep, and concerns have been raised about the transmission of disease from domestic sheep to big horn sheep. There is a concern that once the 800 acres is exchanged to Mr. Miller, there will be no requirement for analyzing potential impacts to big horn sheep under the Montana Environmental Policy Act. DNRC will require Mr. Miller to mitigate this concern either through deed restrictions or some other legally binding agreement that will preclude his ability to graze domestic sheep.

5) Threatened and Endangered Species

Table 3 on page 16 displays the differences between Alternatives A and B with regard to threatened and endangered species. No significant impacts are anticipated as a result of the land exchange.

6) Blackfoot Community Project

Comments supporting this proposal have been received by those affiliated with the Blackfoot Community Project (BCP). Page 4 of the EA describes the BCP, and states that the proposed land exchange would support the goals of the BCP.

7) Mineral Rights

Concerns were raised about mineral rights. Mineral rights are not being exchanged as a component of this land exchange. DNRC will retain full mineral rights in the Sula State Forest and will not be acquiring mineral rights in the Lincoln State Forest.

D. Rationale for the Decision

1) The lands involved in this project are held by the State of Montana in trust for the support of the Common Schools and the Public Buildings trust. DNRC is required by law to administer these trust lands to produce the largest measure of reasonable and legitimate return over the long run (Enabling Act of 1889; 1972 Montana Constitution, Article X, Section 11; and 77-1-202, MCA).

2) This decision complies with 77-2-203, MCA through 77-2-207, MCA and the Land Board Exchange Policy dated December 20, 2004. Specific elements of the Land Board Exchange Policy include the following:

a. Equal or greater value

The approximately 1,458 acres of Lincoln lands have an appraised value of \$1,982,500 (\$1,360/acre), which includes timber values. The approximately 800 acres of Sula lands have a range of appraised values from \$1,065,000 (\$1,331/acre) to \$3,462,000 (\$4,327.50/acre), including timber values. The first appraisal was conducted on October 14, 2004 and discounted for access limitations, while the second appraisal was conducted on August 2, 2005, with hypothetical full access to the property.

The range of values on the Sula properties arises from differences in appraisal assumptions regarding access. Per the Land Board Exchange Policy, "...trust land must be valued in two ways. First the highest and best use of the land with discounts applied to the land for access or other limiting factors. Second the highest and best use of the land without any discounts. The department will then arrive at a value for the trust land proposed for exchange and make a recommendation to the board."

Given the current access limitations to the Sula properties, the DNRC recommends a value of \$2,725/acre be applied to the Sula lands. This would place the current value of the Sula lands at \$2,180,000. This value is within the range of the two appraisals previously conducted (10/14/04 and 8/2/05) on the Sula properties. According to our appraiser, the value of the Lincoln lands has increased by approximately 10% since the appraisal was conducted. Therefore, the current value of those lands is \$2,180,750 ($\$1,982,500 \times 1.10 = \$2,180,750$).

b. State land bordering on navigable lakes and streams

Not applicable. Mud Creek is shown on the USGS quad map as an unnamed intermittent stream.

c. Equal or greater income to the trust

According to page 30 of the EA, current annual revenues from the Sula properties total \$805 from grazing rentals. Under Alternative B, the trust would receive approximately \$1,458 annually from grazing rentals.

d. Equal or greater acreage

Under Alternative B, DNRC would receive approximately 1,458 acres in the Lincoln State Forest, while disposing of 800 acres in the Sula State Forest.

e. Consolidation of state lands

Under Alternative B, state lands in the Lincoln State Forest would be more consolidated than the existing ownership in that area. There would be some loss in consolidation on the Sula State Forest lands.

f. Potential for long-term appreciation

Lands in the Lincoln area have appreciated by approximately 10 percent over the past year. According to page 30 of the EA, the lands north of Lincoln have a residual timber volume of 1.5 to 2.0 MMBF with the potential to generate additional revenues in 20 to 30 years.

g. Access

On page 28 of the EA, it states that the 1,458 acres of land north of Lincoln would be open for walk-in public access; however, the walk-in public access and recreation on the 800 acres of Sula lands would be eliminated. This would constitute a net increase of 658 acres of publicly accessible state trust lands in western Montana. Additionally, DNRC will accept a donation of \$160,000 from Mr. Miller to be used by DNRC to buy other publicly accessible state lands in the Lincoln area.

A legal notice of my decision will appear in the Ravalli Republic and the Missoulian during the week of December 5, 2005.

Upon execution of this decision, I will recommend that the DNRC/Miller Land Exchange be submitted to the Board of Land Commissioners for approval. This should occur at their regularly scheduled meeting on December 19, 2005.

Thomas M. Schultz, Jr., Administrator
Trust Land Management Division